

STATE OF WISCONSIN DEPARTMENT OF COMMERCE

Notice of Public Hearing and Hearing Draft of Proposed Rules

The Department of Commerce announces that it will hold a public hearing on the attached proposed rules for chapter **Comm 91, relating to equal speed of access to toilets at facilities where the public congregates**.

The public hearing will be Friday, July 30, 2004, commencing at 9:30 a.m., in room 3B, Thompson Commerce Center, 201 West Washington Avenue, Madison, Wisconsin.

Interested persons are invited to appear at the hearing and present comments on the proposed rules. Persons making oral presentations are requested to submit their comments in writing. Persons submitting comments will not receive individual responses. The hearing record on this proposed rulemaking will remain open until August 2, 2004, to permit submittal of written comments from persons who are unable to attend the hearing or who wish to supplement testimony offered at the hearing. Written comments should be sent by e-mail to srockweiler@commerce.state.wi.us. If e-mail submittal is not possible, written comments may be addressed to Sam Rockweiler, Department of Commerce, Division of Environmental and Regulatory Services, P.O. Box 14427, Madison, WI 53708-0427.

This hearing will be held in an accessible facility. If you have special needs or circumstances that may make communication or accessibility difficult at the hearing, please call (608) 266-8741 or (608) 264-8777 (TTY) at least 10 days prior to the hearing date. Accommodations such as interpreters, English translators, or materials in audio tape format will, to the fullest extent possible, be made available upon a request from a person with a disability.

Hearing Draft of Proposed Rules

Rule No.: Chapter Comm 91

Relating to: Equal Speed of Access to Toilets at Facilities Where the Public Congregates

The Wisconsin Department of Commerce proposes an order to renumber Comm 91.03 (1) to (6); to amend Comm 91.01 and 91.02 (1); and to create Comm 62.2902 (1) (b) Note (4); 91.03 (1), (4), and (8); and 91.14, relating to equal speed of access to toilets at facilities where the public congregates.

Analysis of Proposed Rules

Statutory Authority: ss. 101.02 (1) and (15) and 101.128 (2), Stats.

Statutes Interpreted: ss. 101.02 (1) and (15) and 101.128, Stats.

Summary

Under ss. 101.02 (1) and (15) of the statutes, the Department has authority to protect public health, safety, and welfare, at public buildings and places of employment, by promulgating and enforcing requirements for construction and maintenance of those facilities.

Under section 101.128 (1) (b) of the statutes, a “facility where the public congregates” is defined as having a general capacity or a seating capacity of 500 or more people. Under section 101.128 (2) (b) of the statutes, the Department must establish standards at these facilities, for ensuring that females have a speed of access to toilets which equals the speed of access that males have.

For public buildings, and for other structures and places of employment with public seating, the Department has established these standards in chapters Comm 61 to 65, which is the *Wisconsin Commercial Building Code*, and in chapter Comm 90, which addresses public swimming pools and other water attractions.

The proposed rules would establish standards for facilities where the public congregates that are not addressed by the minimum number of plumbing fixtures required in chapters Comm 61 to 65, or 90. The proposed rules would *not* apply to any of these facilities that currently exist, unless either of the following occur: (1) new restrooms or other new toilet facilities are proposed, in which case the rules would apply only to the new restrooms or other new toilet facilities; or (2) more than 50% of the square footage of an existing restroom or other existing toilet facility is renovated, in which case the rules would apply only to the renovated portion.

The proposed ratio of two female toilets for every male toilet and every urinal is identical to the ratio that is contained in the *Wisconsin Commercial Building Code*, and is consistent with current national-level building code standards, which have been upgraded in recent years to achieve equal speed of access to toilets, particularly where large numbers of the public congregate.

An Internet-based search of existing and proposed federal regulations did not identify any that address equal speed of access to toilets.

An Internet-based search of adjacent states identified only Minnesota as having statewide rules that specify a ratio of female restroom facilities to male restroom facilities, at public gathering places which are similar to those addressed by the rules proposed here for Wisconsin. The Minnesota rules specify that the ratio of water closets for women to the total of water closets and urinals provided for men must be at least three to two, unless there are two or fewer fixtures for men; and this ratio is applied to places of public accommodation that are designed for occupancy by 200 or more people.

Hearing Draft

Comm 62.2902 (1) (b) Note (4) is created to read: Comm 62.2902 (1) (b) Note (4): Chapter Comm 91 has requirements for equal speed of access to toilets for each gender, at facilities where the public congregates that are not addressed by the minimum number of plumbing facilities required in this code.

Comm 91.01 is amended to read: Comm 91.01 Purpose. ~~The purpose of this~~ This chapter has the following two purposes: (1) ~~This chapter is to establish~~ establishes minimum standards and criteria for the design, installation and maintenance of sanitation systems and devices which are alternatives to water-carried waste plumbing fixtures and drain systems so that these sanitation systems and devices are safe and will safeguard public health and the waters of the state.

(2) This chapter establishes criteria for equal speed of access to toilets for each gender, regardless of the type of toilet, at facilities where the public congregates that are not addressed by the minimum number of plumbing facilities required in chs. Comm 61 to 65, or 90.

Comm 91.02 (1) is amended to read: Comm 91.02 (1) This chapter has the following two applications:

(a) This chapter applies to all composting toilet systems, incinerating toilets, pit privies and vault privies installed or constructed on or after the effective date of this chapter.

(b) Except as provided in s. Comm 91.14 (2), this chapter applies to all facilities where the public congregates that are not addressed by the minimum number of plumbing facilities required in chs. Comm 61 to 65, or 90.

Comm 91.03 (1) to (6) are renumbered Comm 91.03 (2), (3), (5) to (7), and (9).

Comm 91.03 (1), (4), and (8) are created to read: Comm 91.03 (1) “Amusement facility” has the meaning given in s. 101.128 (1) (a), Stats.

Note: Section 101.128 (1) (a), Stats., reads as follows: “ ‘Amusement facility’ means any zoo, state or local park, amusement or theme park, state fair park, county or other local fairgrounds, or any similar facility, as determined by department rule.”

(4) “Facility where the public congregates” has the meaning given in s. 101.128 (1) (b), Stats.

Note: The relevant portions of section 101.128 (1) (b), Stats., read as follows: “ ‘Facility where the public congregates’ means any of the following that has a general capacity or a seating capacity of 500 or more persons:

1. An amusement facility.

3. A specialty event center.”

(8) “Specialty event center” has the meaning given in s. 101.128 (1) (g), Stats.

Note: Section 101.128 (1) (g), Stats., reads as follows: “ ‘Specialty event center’ means an open arena used for rallies, concerts, exhibits or other assemblies, with no permanent structure for such assembly.”

Comm 91.14 is created to read: Comm 91.14 Equal speed of access to toilets. (1) Except as provided in sub. (2), when separate public restrooms or other toilet facilities are to be provided for males and females at a facility where the public congregates, the number of toilets for the females shall be provided at a ratio of 2 for every toilet and every urinal provided for the males.

(2) This section applies to an existing facility where the public congregates only if either of the following occur:

(a) New restrooms or other toilet facilities are provided, in which case this section applies only to the new restrooms or other facilities.

(b) More than 50% of the square footage of an existing restroom or other toilet facility is renovated, in which case this section applies only to the renovated portion.

Note: Under section 101.128 (1) (d), Stats., “ ‘renovation’ means any structural remodeling, improvement or alteration of an existing facility where the public congregates. ‘Renovation’ does not include any of the following: Reroofing, Cosmetic remodeling, including painting or the installation of wall covering, of paneling, of floor covering or of suspended ceilings.

3. An alteration to an electrical or mechanical system.”(END)

EFFECTIVE DATE: Pursuant to s. 227.22 (2) (b) and 101.128 (4), Stats., these rules shall take effect on the first day of the 7th month beginning after the date of publication in the *Wisconsin Administrative Register*.